Grant R. Clayton Alan J. Howarth, Ph. D. Karl R. Cannon Clifford B. Vaterlaus Terrence J. Edwards Brett J. Davis Registered Patent Attorneys

Intellectual Property Law Patents • Trademarks Copyrights • Licensing Litigation • Trade Secrets Computer Law • Biotechnology Unfair Competition • Enforcement

Clayton, Howarth & Cannon

Attorneys At Law • A Professional Corporation

Attorney Docket No T9105 C Mailing Address P.O. Box 1909 Sandy, Utah 84091

> **Physical Address** 1225 East Fort Union Boulevard Suite 300 Midvale, Utah 84047

Phone: (801) 255-5335 Facsimile: (801) 255-5338 Home Page: www.chcpat.com General E-mail: patlaw@chcpat.com

August 19, 2003



Mail Stop Patent Application Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450

Dear Sir:



Transmitted herewith for filing under 37 C.F.R. § 1.53(b) is a patent application entitled "Textured Whey Protein Product and Method," comprising:

	Continuation of prior application no	, filed
	[date], which is hereby incorporated by reference application in its entirety.	
	This continuation constitutes the enclosed true and said prior application, together with any instruction provided herein or herewith.	
	Divisional of prior application no, filed ***	[date]***, which
	is hereby incorporated by reference in the enclosed application. This divisional constitutes the enclosed true and constitutes are said prior application, together with any instruction provided herein or herewith.	ion in its entirety. complete copy of
<u>_X</u>	Continuation-in-part of prior application no. 09/596,191, fi now U.S. Patent No. 6,607,777, which claims the benefit of Application No. 60/140,280, filed June 18, 1999, which incorporated by reference in the enclosed application in the	U.S. Provisional hich are hereby
	patent application claiming the benefit of U.S. Provisional /***,***, filed ***[date]***, which is hereby incorporated by	
	closed application in its entirety.	1010101100 111 1110

I hereby certify that this correspondence, and all enclosures indicated, are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on the date indicated above in an envelope addressed to: Mail Stop Patent Application, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450.

Respectfully submitted,

Alan J. Howarth

Attorney Registration No 36,553

X Fifty-two (52) pages of specification, claims and abstract. ***[Nineteen (19)]*** sheets of ____ formal/___informal drawings. Declaration, Power of Attorney and Petition. ____ Newly Executed Copy from prior application (when a continuation or divisional) (37 C.F.R. Associate or Substitute Power of Attorney Microfiche Computer Program (Appendix) Nucleotide and/or Amino Acid Sequence Submission Computer Readable Copy Paper Copy (identical to computer readable copy) Statement verifying identity of above referenced copies Also enclosed are: An Assignment from ___ (including assignment cover sheet) An Information Disclosure Statement under 37 C.F.R. §1.97 accompanied by a Form PTO-1449. A Preliminary Amendment, and the fee calculation set forth below is based upon the claims as constituted by said amendment. X A return receipt postcard under MPEP § 503, indicating specially itemized enclosures. A Certificate Under 37 C.F.R. §3.73(b) to Establish Right of Assignee to Take Action. X A Certificate of Express Mailing certifying a filing date of August 19, 2003, by use of Express Mail Label No. EV 302976729 US. A Declaration Claiming Small Entity Status for ***[independent inventor, etc.]***,

under 37 C.F.R. §§ 1.9 and 1.27.

	A paper entitled "Establishment of Small Entity Status" under 37 C.F.R. § 1.28(a), along with a copy of the declaration claiming small entity status under 37 C.F.R. §§ 1.9 and 1.27 filed in the prior application.				
	Certified copy of priority document(s) (if foreign priority is claimed).				
	A Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i). ***[Ask Atty]**				
	A copy of the extension of time simultaneously filed in the prior application.				
Instructions and Averments:					
•••••	Incorporation by Reference (if a copy of the declaration from prior application is included). The entire disclosure of the prior application, from which a copy of the declaration is supplied herewith as referenced above, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.				
	A Declaration Claiming Small Entity Status was filed in the prior application and such status is still proper and desired.				
	Cancel in this application original claims of the prior application before calculating the filing fee.				
	Pursuant to 37 C.F.R. § 1.78(a)(2), please amend the specification as follows:				
	[Attorney to fill in here if this is needed]				
<u>FEES</u>					
<u>X</u>	No Fees are enclosed.				
	Check No in the amount of \$00 which represents the filing fee for this application.				

The fees have been calculated as set forth below.

PATENT APPLICATION FEE CALCULATION TABLE							
	SMALL ENTITY			LARGE ENTITY			
	NO. FILED	NO. EXTRA	RATE	FEE	OR	RATE	FEE
BASIC FEE				\$ 370	OR		\$ 740
TOTAL CLAIMS	- 20 =		X 9≈	\$	OR	X 18=	s
IND. CLAIMS	- 03 =		X 42 =	\$	OR	X 84 =	s
Presentation of Multiple Dependent Claims			+ 140 =	\$ -	OR	+ 280 =	\$
ASSIGNMENT RECORDATION FEE ()			+ 40 =	\$ -	OR	+ 40 =	\$
			TOTAL:	\$	OR	TOTAL:	<u> </u> s

The Commissioner is hereby authorized to charge payment of the following fees associated with this communication, if indicated by a marking below in the blank line corresponding to said fees, or credit any overpayment, to Deposit Account No. 50-0836.

		An original and one copy of this letter are enclosed.		
		Any additional filing fees required under 37 C.F.R. § 1.16.		
		Any patent application processing fees under 37 C.F.R. § 1.17.		
The Commissioner is hereby authorized to charge payment of the following fees during the pendency of this application, if indicated by a marking below in the blank line corresponding to said fees, or credit any overpayment, to Deposit Account No. 50-0836.				
		Any patent application processing fees under 37 C.F.R. § 1.17.		
		The issue fee set forth in 37 C.F.R. § 1.18 at or before mailing of the Notice of Allowance, pursuant to 37 C.F.R. § 1.311(b).		
		Any filing fees under 37 C.F.R. § 1.16 for presentation of extra claims.		

CORRESPONDENCE ADDRESS

X Please address all future correspondence to:

Customer No. 20450

X Please direct all future telecommunications to:

Alan J. Howarth Clayton, Howarth & Cannon, P.C. Telephone: (801) 255-5335 Facsimile: (801) 255-5338

X Please refer to the following attorney docket number in all future correspondence and telecommunications:

T9105.C

Dated this 19th day of August, 2003.

Respectfully submitted,

While Howarth

Alan J. Howarth

Attorney Registration No. 36,553

Clayton, Howarth & Cannon, P.C.

P.O. Box 1909

Sandy, Utah 84091

AJH/kd Enclosures